

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 679
Title 14, California Code of Regulations
Re: Wildlife Rehabilitation

I. Date of Initial Statement of Reasons: February 3, 2006

II. Dates and Locations of Scheduled Hearings:

(a)	Notice Hearing:	Date:	February 3, 2006
		Location:	Sacramento, California
(b)	Discussion Hearing	Date:	April 7, 2006
		Location:	Monterey, California
(c)	Adoption Hearing	Date:	May 4, 2006
		Location:	Kings Beach, California

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. Modify specific application process

Existing regulation allows the department to issue a (MOU) Memorandum of Understanding to wildlife rehabilitation facilities that meet the minimum standards set forth in the 1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program (WRMSAP) manual but does not describe a specific application process. The regulation change proposal identifies a specific process by which the Department can better evaluate the need for such facilities and the applicant's qualifications for conducting wildlife rehabilitation activities. The proposal establishes a non-refundable application processing fee and a one-time facility inspection fee predetermined by the department pursuant to Fish and Game Code Sections 713 and 2150.2. Payment of an application processing and an inspection fee is proposed to offset the cost of reviewing and processing a wildlife rehabilitation permit. The department has provided an estimate (Fiscal Impact Analysis) on the hours of time dedicated to reviewing and processing a wildlife rehabilitation application package. The Department will spend approximately 6 hours to review a wildlife rehabilitation permit application package. The statewide rehabilitation coordinator is an associate biologist. The current hourly rate for an Associate biologist is \$30.01. Of the five to fifteen requests to obtain a wildlife rehabilitation MOU the Department is estimating the most that would be permitted in one year would be ten. The cost average is estimated to be \$90.00. The Department will require the applicant pay a base fee (as determined below) indexed annually by the Implicit Price deflator. The initial inspection fee cost estimate for 2006 is \$114.54.

Fiscal Impact Analysis of Proposed Regulatory Changes to Section 679, Title 14, CCR

Tasks	Annual Number Of Assistance	Minutes Required to Complete Tasks	Total Number of Minutes	Total Number of Hours
Assign applicant two nearby facilities to obtain letters of need	10	30	300	5
Review letters of need from nearby facilities and confirm	10	60	600	10
Send letters of need to regional manager and seek approval from Regional manager department to proceed with application process	10	60	600	10
Contact applicant to proceed with application	10	30	300	5
Review application packet for completeness and send to CCWR for an inspection	10	60	600	10
Upon receiving inspection recommendation or denial the application package will be given a final review and the final decision of denial or approval will be sent to the applicant and the Regional manager.	10	120	1,200	20
Total Number of Hours Annually				60

Personnel Costs to Complete New Workload

<i>Classification</i>	<i>Hourly Rate</i>	<i>Total Number of Hours</i>	<i>Total Annual Costs</i>
Associate Biologist	\$ 30.01	30	\$ 900.30

Justification for New Application Fee

	<i>Number of Applications Annually</i>	<i>Total Annual Costs \$</i>	<i>Non- refundable Application Fee \$</i>
	10	900.00	90.00
Justification for Inspection fees	Average miles per gallon vehicle is 18 MPG	Average cost of gasoline per gallon \$2.50	Total cost

Gas/Mileage. An average inspection is estimated to be approximately 50 miles roundtrip	3 gallons x	\$2.50	\$7.50
Vehicle usage .34 ea. mile x 50 miles =			\$17.00
Personnel cost to complete work load	Hourly Rate	Number of hours	
Inspection. An average inspection fee is estimated to be 2 hours.	30.01	2	60.02
Documentation. It is estimated that an average or 1 hour is needed to document the findings of the inspection and give a recommendation	30.01	1	30.02
		Total	114.54

New wildlife rehabilitation permits will be issued on an “as needed” basis only under (it is only estimated that between 5-15 applications will be sent in on a yearly basis) the protocol contained within the updated regulation and will remain subject to approval by the regional manager within the region where the facility would be located. The department will request applicants obtain two letters from already permitted rehabilitation facilities (nearest to the location of the proposed facility). This requirement will allow the department to determine if there is a need for a new facility. Prior history shows that two rehabilitation facilities within close vicinity of each other compete for non-profit donations and respond unnecessarily to public calls that have placed a call at both facilities. Establishing a genuine need by requiring documentation from an already established facility will help the department decide if there is really a need for a new facility.

An application form is required to establish the education, experience, organization and preparedness of the applicant to begin rehabilitation activities.

The department is requiring the applicant have a minimum of two years or 400 hours of experience working under a currently-permitted rehabilitation facility. The applicant must have documentation from the permitted facility that they do have the required hours to make them eligible for a wildlife rehabilitation permit. This requirement is necessary because the permittee will be acting as the sole health care provider for injured and orphaned wildlife. This will require extensive knowledge about California wildlife and the rules and regulations concerning wildlife regulations.

The department is requiring documentation of established or proposed caging for wildlife rehabilitation that will meet or exceed the minimum requirements of the WRMSAP manual.

A statement of general intent is required from applicants so that the department can fully understand the intent of the applicant with respect to organization, facility size and the types of animals to be rehabilitated. A letter of intent will help the department determine if the intent of the applicant is reasonable with the amount of experience, education, and caging that the applicant possesses.

This proposal also establishes in regulation the MOU shall be valid for a term not to exceed three (3) years from the date of issuance and will be issued to meet the needs of the specific department/region at the discretion of the regional manager. At the end of the three years when the MOU expires, the applicant may apply for the renewal of the MOU by filling out a Permit/Application Renewal form. Upon the renewal of a permit a non-refundable processing fee will be charged. The application package validity will be one year. If the applicant does not have the proposed rehabilitation facility built within one year of getting department approval for wildlife rehabilitation permit the applicants permit/ MOU will be revoked. In order to reapply the applicant will have to go through the process again.

2. Update of California Code of Regulations, Title 14, Section 679

Existing regulation provides for minimum wildlife care standards based on the 1993 WRMSAP manual published by the International Wildlife Rehabilitation Council and the National Wildlife Rehabilitators Association. With respect to minimum care standards, the 1993 manual was adopted and made part of department regulation; however, it has been and continues to be periodically updated with new information regarding minimum care standards. This proposal defines the department's minimum care standards as those contained within the most recent approved WRMSAP manual.

The regulation proposal includes a processing fee and an inspection fee (as referenced in #1 above). The processing fee will allow the department to recover processing costs. The inspection fee will cover the time and costs for a minimum of a two-hour inspection to either be conducted by the department or an organization approved by the department.

The Department's Fish and Game Manual 679 is being codified to reflect the following changes: designate a veterinarian of record to approve and provide all medical care; establish approved training protocol for wildlife rehabilitation personnel.

3. Minor Editorial Changes

Minor editorial changes are necessary for grammar correction and clarification. Specifically, subsection 679 (b) is modified to clarify that the department has sole authority in deciding how to dispose of confined animals, including the option to transfer confined animals from one approved facility to another approved facility. The proposal also updates the regional office locations.

Subsection 679(e)(2) deletes the reference regarding the June 6, 1997 time frame for existing wildlife rehabilitation facilities to meet the minimum care standards established in the 1993 WRMSAP manual. This date is no longer relevant as the regulation change proposal references minimum care standards contained within the latest approved WRMSAP manual.

Subsection 679(f)(3) deletes the reference to "facilities" in the sentence to better fit current rehabilitators situations. The majority of rehabilitators in the state rehabilitate small birds and mammals from their residence and are asked to keep domestic animals separate from wild animals. This can be done by having a separate room for rehabilitation or visual barriers. The current structure of the sentence could be interpreted as the rehabilitator needs a separate facility different from their home, if they have domestic animals, to house wildlife.

Subsection 679(f)(4) is deleted as the department does not provide bands or tags to mark rehabilitated animals and does not require them to be so marked on a regular basis. If a banding or tagging need arises the department will facilitate bands or tags with individual permittees.

Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) 200, 2000, 3005.5, 3800 and 4150, Fish and Game Code.

Reference: Section(s) 200, 1008, 2000, 2001, 3005.5, 3511, 3800, 4150, 4190 and 4800, Fish and Game Code.

(b) Specific Technology or Equipment Required by Regulatory Change:

None

(c) Identification of Reports or Documents Supporting Regulation Change:

1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program Manual (WRMSAP)

2000 Wildlife Rehabilitation Minimum Standards and Accreditation Program Manual

Department of Fish and Game Manual 679 (5/94) – Wildlife and Rehabilitation and Care Standards

Application Form 542 (9/05)

- (d) Public Discussions of Proposed Regulations Prior to Notice Publication:

California Council for Wildlife Rehabilitation (CCWR) Board and Advisory Committee Meeting May 28th, 2005, San Pedro, California

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Alternative #1- Delete processing fee. The Department historically processed the wildlife rehabilitation permit for no charge. Wildlife rehabilitators use either personal funding or public donations for the expenses incurred to rehabilitate wildlife. Wildlife rehabilitators also take thousands of calls a year regarding wildlife and provide public education free of charge. This is a benefit to the department.

Recognizing the public importance of wildlife rehabilitation, the department has recently committed a full time position to coordinate wildlife rehabilitation statewide. Routine and enforcement inspections, complaints, and public safety issues cost the department a tremendous amount of time, effort, and money. Under this alternative the department would continue work related to evaluating applications free of charge.

- (b) No Change Alternative:

No change would leave the regulations with outdated information. The application process suggested in these regulations provides the department with a fair and consistent process to administer wildlife rehabilitation permits. Historically, the department has not had a specific protocol for issuing wildlife rehabilitation permits within the Department.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have significant statewide adverse economic directly affecting business, including the ability of California businesses to compete with businesses in other states. At the May 28, 2005 CCWR Advisory Committee meeting, it was determined that a processing fee and an inspection fee to cover the cost by the department and/or the CCWR inspectors was a reasonable suggestion. The departments proposed fees are at a lower level than what was decided upon at the meeting.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

- (c) Cost Impacts on a Representative Private Person or Business:

A private person or business will be required to pay a new fee pursuant to proposed regulations geared to recover the department's cost of administering the program.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

- (h) Effect on Housing Costs:

None

Informative Digest/Policy Statement Overview

At the December 9, 2005, commission meeting in Concord, the Commission was asked by members of the public to take this regulation change proposal off the consent calendar and continue it until the February 3, 2006 meeting to allow interested parties time to have input. After working with interested parties the Department has made some minor changes and is re-submitting this package.

The proposal is to establish a specific application process (including associated forms) to approve new wildlife rehabilitation facilities. Documentation is required from the applicant to assist the Department in determining the need for such new facilities. The proposal also establishes an inspections and processing fee and describes a consistent process through the use of non-profit organization to conduct inspections.

The proposal identifies specific training requirements to be met by wildlife rehabilitation facilities and their personnel.

Minor editorial changes are made to clarify and update existing regulatory language regarding wildlife rehabilitation care standards.

Existing regulation allows the department to issue a (MOU) Memorandum of Understanding to wildlife rehabilitation facilities that meet the minimum standards set forth in the 1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program (WRMSAP) manual but does not describe a specific application process. The regulation change proposal identifies a specific process (including associated forms) by which the Department can better evaluate the need for such facilities and the applicant's qualifications for conducting wildlife rehabilitation activities. The proposal establishes a non-refundable application processing fee and a one-time facility inspection fee predetermined by the department pursuant to Fish and Game Code Sections 713 and 2150.2. Payment of an application processing and an inspection fee is proposed to offset the cost of reviewing and processing a wildlife rehabilitation permit. The Department has provided information in the proposed Fiscal Impact Analysis (III, (a), 1, of this document).

New wildlife rehabilitation permits will be issued on an "as needed" basis only and will remain subject to approval by the regional manager within the region where the facility would be located. The department will request applicants obtain two letters from already permitted rehabilitation facilities (nearest to the location of the proposed facility). This requirement will allow the department to determine if there is a need for a new facility. A letter of intent will be required as part of the application package to assist the department in assessing the applicants qualifications with regard to education experience and available facilities. Application validity is one year from date of approval; if the facility is not operational in this time frame, the applicant's permit will be revoked.

The department is requiring the applicant have a minimum of two years or 400 hours of experience working under a currently-permitted rehabilitation facility. The applicant must have documentation from the permitted facility that they do have the required hours to make them eligible for a wildlife rehabilitation permit.

This proposal also establishes in regulation the MOU shall be valid for a term not to exceed three (3) years from the date of issuance and will be issued to meet the needs of the specific department/region at the discretion of the regional manager. At the end of the three years when the MOU expires, the applicant may apply for the renewal of the MOU by filling out a Permit/Application Renewal form. Upon the renewal of a permit a non-refundable processing fee will be charged.

The department is updating the regulations to reflect the current standards contained in the most recent edition of the WRMSAP Manual.